

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI

CIVIL REVISION APPLICATION NO. 243 OF 2002

Falcon Retreat Private Ltd.,
a Company incorporated under
the Indian Companies Act, 1956
having its registered office
at Falcon House, Muddo Candolim,
Bardez, Goa, represented by its
Managing Director
Mr. Anthony Rosario Fernandes,
son of Joaquim M. Fernandes,
Falcon Resorts, Calangute,
Bardez, Goa.

... Applicant.

versus

1. Mr. Armino Inacio Braganza
also known as Armando Inacio
Braganza, son of Jose Cipriano
Braganza, major of age, landlord
and his wife,

2. Mrs. Jovita Braganza,
daughter of Felix D'Souza,
major of age, housewife,
both residing at Korlim,
Mapusa, Goa.

... Respondents.

.....

Mr. J. Godinho, Advocate for the Applicant.

Mr. N. Sardesai, Advocate for the Respondents.

CORAM: P. V. HARDAS, J.

DATED: 12TH DECEMBER, 2002.

ORAL JUDGMENT

The present Respondents herein had filed
Execution Application which arose out of the Judgment and

Decree passed by the learned Trial Court in Special Civil Suit No.76/95/A which was decreed on the basis of the Consent Terms presented by the parties. A short point arises in the present revision and that is: Is the Judgment Debtor liable to pay interest on an amount of Rs.40,00,000/- only in the event the Judgment Debtor has committed default in the payment of instalments?

2. The facts necessary for the decision of the present revision can be stated as follows:-

By the Compromise Decree dated 13th October, 1995, the present Applicant/Original Plaintiff agreed to pay the balance consideration of Rs.40,00,000/- in four instalments of Rs.10,00,000/- each in the manner which was stated in para 2 of the Compromise Decree. Para 3 of the Compromise Decree, which for the sake of convenience is reproduced below reads as follows:-

"The amount of Rs.40,00,000/- (Rupees forty lakhs only) shall carry interest at 14% per annum from the date of presentation, admission and execution of deed of sale in the office of Sub Registrar till the date of payment of said amount of Rs.40,00,000/- (Rupees forty lakhs only) such interest shall be calculated on reducing balance basis".

3. Mr. J. Godinho, the learned Counsel for the Applicant has urged before me that the perusal of para 3

reproduced above would clearly indicate that the present Applicant would be liable to pay interest at the rate of 14% on an amount of Rs.40,00,000/- on reducing balance basis only in the event the present Applicant has committed default in the payment of instalments. Therefore, according to the learned Counsel for the Applicant, the learned Trial Judge has only misread Clause 3 of the Compromise Decree and has directed the present Applicant to pay interest on Rs.40,00,000/- as per Clause 3 of the Consent Terms.

4. The above submission of the learned Counsel for the Applicant is completely misconceived. Perusal of Clause 3 of the Consent Decree makes it abundantly clear that the amount of Rs.40,00,000/- would carry interest at the rate of 14% from the date of presentation, admission and execution of the Sale Deed till the date of payment of the amount of Rs.40,00,000/-. The only rider that is put is that the interest shall be calculated on reducing the balance basis. This Clause in no uncertain terms passes the liability on the present Applicant to pay interest at the rate of 14% per annum on Rs.40,00,000/- on reducing balance basis. There is nothing in this Clause which would remotely suggest that the Applicant would be liable to pay interest only in the event he commits default in the payment of instalments. The plain language of Clause 3 clearly belies the submission of the

learned Counsel for the Applicant.

5. I have perused the Order of the learned Trial Court and accordingly to me, the learned Trial Court has clearly interpreted Clause 3 and has directed the present Applicant to pay interest at the rate of 14% per annum on Rs.40,00,000/- for the period specified in Clause 3. According to me, there is no perversity in the reasoning of the learned Trial Court to warrant any interference in this revision, which is devoid of any substance and deserves to be dismissed.

6. Civil Revision Application No.243 of 2002 is dismissed. However, there shall be no order as to costs.

P. V. HARDAS, J.

RD.